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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/576,499	05/23/2000	Richard E. Williams	2429/4	4593

7590

12/17/2003

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CHICAGO, IL 60606

EXAMINER

ARNOLD III, TROY G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 12/17/2003

28

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/576,499

Applicant(s)

WILLIAMS, RICHARD E. *CH*

Examiner

Troy Arnold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7, 10, 11, 13-17, 20-23, 25, 26, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7, 10, 11, 13-17, 20-23, 25, 26, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-7, 10, 11, 13-17, 20-23, 25, 26, 29 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 recites the limitation "the radiator" in several places. There is insufficient antecedent basis for this limitation in the claim. The preamble does not positively recite or claim a radiator. For purposes of examination, it has been assumed that a radiator is NOT being claimed. This also applies to "the article" in the last line of claim 11 – there is no antecedent basis for "the article." In claim 23, it is unclear exactly the state of the packaging system – is it a blank with cuts or is it folded into the final shape? Terms and phrases such as "initially" and "said sheet being die cut to form said arms" and "when said arms are folded toward each other" in addition to the other language in the claim make it indefinite whether the packaging system is being claimed in its final finished state or not. For purposes of examination, it will be assumed that the package IS in its final state, and the above phrases will be given little patentable weight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-7, 10 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al in view of Wood, Cadillac et al, and Official Notice. Sullivan teaches all the limitations of claims 2 except a) the legs being oriented away from the arms and b) the at least one stand-off element. (Note that Sullivan's system could be used to package a rectangular vehicular radiator of the geometrical orientation claimed, and appears well suited to do so.) Regarding a), the legs being oriented away from the arms is not in and of itself critical to the instant invention – Sullivan's structure accomplishes exactly the same protective central retention of the item being held, as in Fig 2. The Applicant uses a structure and a spacer, while Sullivan uses two similar structures, back to back. It would have been obvious to one of ordinary skill in the art at the time the invention was made to fold Sullivan's leg portions in a direction away from the arms 16 for any number of reasons – this is effectively what he teaches in Fig 2. Regarding the stand-off element, Wood teaches stand-off elements 17 in a packaging system, and Cadillac also teaches stand-off elements 11,12 in a packaging system. Official Notice is also taken that stand-off elements, spacers, shims, cushion members and the like, are old, obvious and well known in the packaging arts. It would have been

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obvious to one of ordinary skill in the art at the time the invention was made to incorporate stand-off elements into the invention of Sullivan for the purpose of insuring that the item packaged 17 did not move toward one of the walls of the outer container 20, due to flexing of the central portion. Sullivan teaches all the limitations of claim 3 except the tray member being made of Kraft paper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper, as Kraft paper is the full functional equivalent of the cardboard specified by Sullivan. Sullivan teaches all the limitations claimed in claims 4, 6 and 10 (Regarding claim 10, see Fig 4). Sullivan teaches all the limitations of claims 5 and 7 except a diagonal fold line forming a gusset, pre-cut locking tabs and pre-cut locking receptacles. Official Notice is taken that such structures are old, obvious and well known in the packaging arts, and would have been obvious modifications to Sullivan for the purpose of expediting assembly. Sullivan also teaches all the limitations claimed in claim 30.

Claims 11, 13, 14, 16, 20, 22, 23, 25, 26 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al. Sullivan teaches all the limitations of claims 11 and 23 except the legs being oriented away from the arms. (Note that Sullivan's system could be used to package a rectangular vehicular radiator of the geometrical orientation claimed, and appears well suited to do so.) The legs being oriented away from the arms is not in and of itself critical to the instant invention – Sullivan's structure accomplishes exactly the same protective central retention of the item being held, as in Fig 2. The Applicant uses a structure and a spacer, while Sullivan



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uses two similar structures, back to back. It would have been obvious to one of ordinary skill in the art at the time the invention was made to fold Sullivan's leg portions in a direction away from the arms 16, for any number of reasons – this is effectively what he teaches in Fig 2. Regarding claim 13, Sullivan's component is made of a rectangular, rigid (inasmuch as that of the Applicant's is) planar sheet and is cut to form the arms, the legs being defined at least in part by fold lines. See Figs 3 and 4. Regarding claim 14, see Fig 4 of Sullivan. Regarding claim 16, Sullivan teaches side and end leg portions with lapping portions at each corner which fold over and underlie adjacent portions. See Fig 3. Regarding claim 20, see Fig 4, at items 42. Regarding claim 22, see item 18,45. Sullivan teaches all the limitations claimed in claim 25. Sullivan teaches all the limitations of claim 26 except a diagonal fold line forming a gusset, pre-cut locking tabs and pre-cut locking receptacles. Official Notice is taken that such structures are old, obvious and well known in the packaging arts, and would have been obvious modifications to Sullivan for the purpose of expediting assembly. Sullivan teaches all the limitations of claim 29 except the tray member being made of Kraft paper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper, as Kraft paper is the full functional equivalent of the cardboard specified by Sullivan.

Claims 15, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al in view of Official Notice. Sullivan teaches all the limitations of claims 15 and 17 except a diagonal fold line forming a gusset, pre-cut locking tabs and pre-cut locking receptacles. Official Notice is taken that such structures

are old, obvious and well known in the packaging arts, and would have been obvious modifications to Sullivan for the purpose of expediting assembly. Sullivan teaches all the limitations of claim 21 except the tray member being made of Kraft paper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper, as Kraft paper is the full functional equivalent of the cardboard specified by Sullivan.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Arnold whose telephone number is 703-305-0621. The examiner can normally be reached on Tuesday-Thursday, 9:30-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is 703-872-0302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Troy Arnold
Examiner
Art Unit 3728

TGA
12/15/03



Mickey Yu
Supervisory Patent Examiner
Group 3700